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TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1950

No. 399

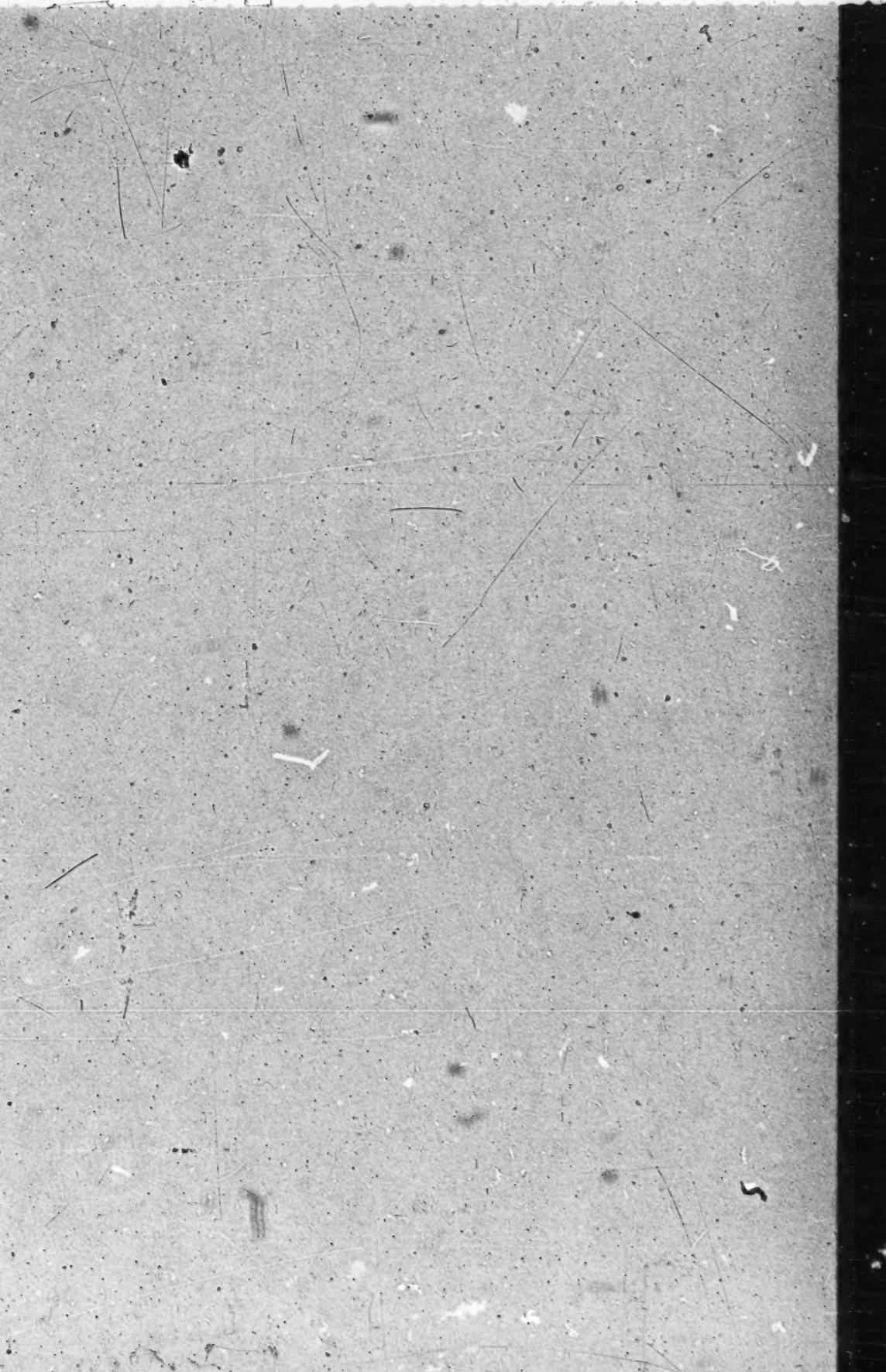
JACK H. BREARD, APPELLANT,

vs.

CITY OF ALEXANDRIA

APPEAL FROM THE SUPREME COURT OF THE STATE OF LOUISIANA

FILED NOVEMBER 2, 1950.



SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1950

No. 399

JACK H. BREARD, APPELLANT,

vs.

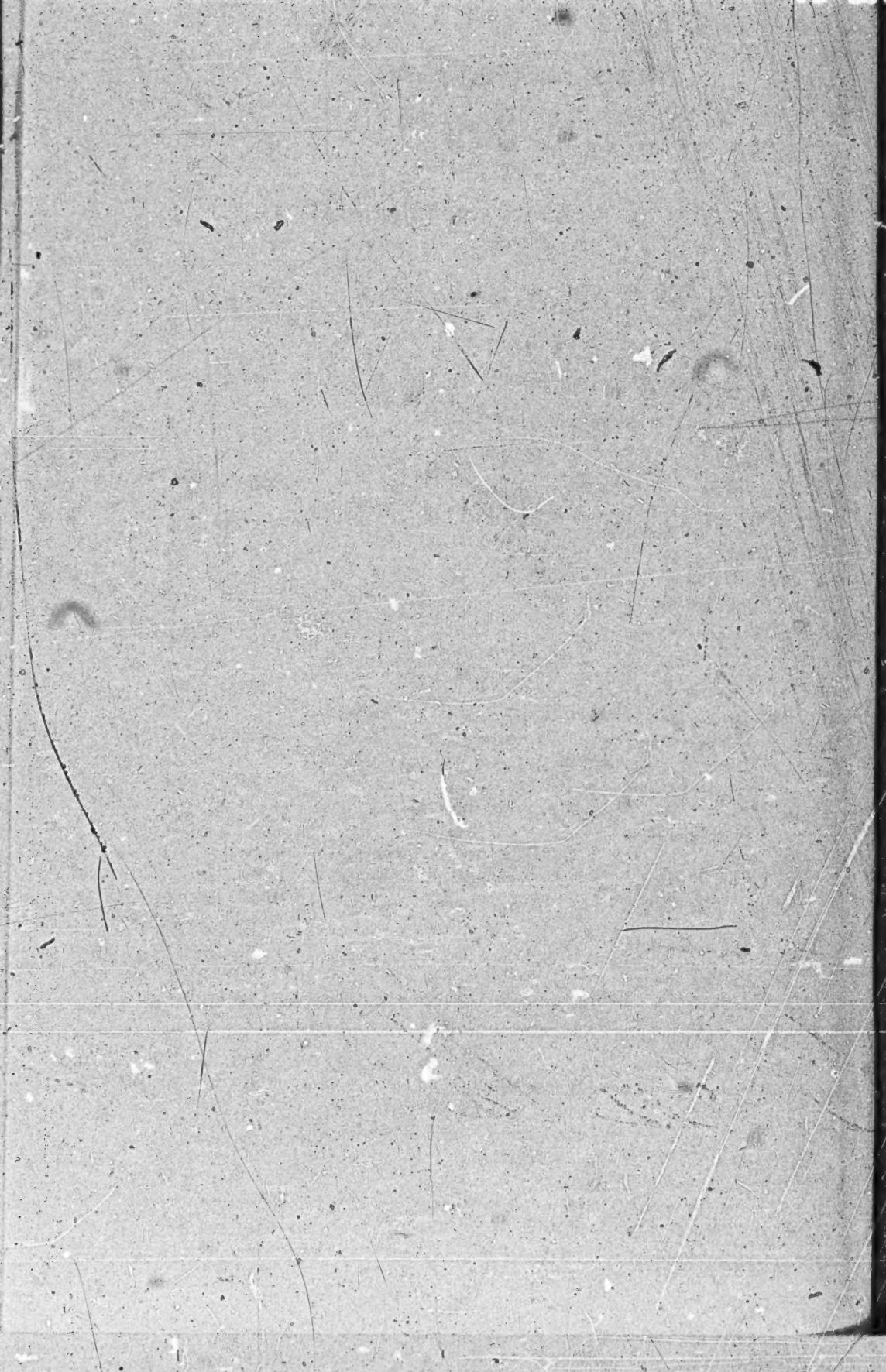
CITY OF ALEXANDRIA

APPEAL FROM THE SUPREME COURT OF THE STATE OF LOUISIANA

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Judd & Detweiler (Inc.), Printers, WASHINGTON, D. C., JAN. 3, 1951.



[fol. 1]

[File endorsement omitted]

IN THE CITY COURT OF ALEXANDRIA WARD,
PARISH OF RAPIDES, STATE OF LOUISIANA

Docket No. 9225-D

CITY OF ALEXANDRIA, LOUISIANA

versus

JACK H. BREARD (W), Dallas, Texas

CITY CHARGE SHEET—Filed June 29, 1949

STATE OF LOUISIANA,

Parish of Rapides,

City of Alexandria:

Personally came and appeared before the undersigned authority in and for said Parish duly qualified, Alfred Hall who, being duly sworn, upon information and belief, deposes and says that Jack H. Breard on the 28th day of June, 1949, within the limits of the City of Alexandria, Louisiana, did violate Penal Ordinance #500 (Selling Magazines from House to House)

In violation of the Ordinances of the City of Alexandria, Louisiana, in such cases made and provided; and against the peace and dignity of the same, and therefore deponent prays that the aforesaid Jack H. Breard may be arrested and dealt with according to law.

Signed Alfred Hall.

Sworn to and subscribed before me this 29th day of June, 1949. Stafford J. Riche.

4-1-50.

Disposition

Case called. Defendant arraigned and plead Not Guilty. Tried and found guilty, and sentenced as follows: \$25.00 or 30 days.

Notice of Appeal given in open court. Appeal Bond fixed at \$100.00 and appeal granted Supreme Court.

Gus Voltz, City Judge.

Witnesses for City, Alfred Hall.

[fol. 2] Appearance Bond: \$100.00.

Officer: Stafford J. Riche.

Arresting Officer: Alfred Hall.

[fol. 3] CITY COURT OF ALEXANDRIA WARD, PARISH OF RAPIDES,
STATE OF LOUISIANA

[File endorsement omitted.]

CITY OF ALEXANDRIA, LOUISIANA

versus

JACK H. BREARD

MOTION TO QUASH—Filed March 5, 1950

To the Honorable, the City Court of Alexandria for Ward One, Parish of Rapides, State of Louisiana:

Now into Court through undersigned counsel, comes Jack H. Breard, made defendant in the above numbered and entitled prosecution, who, before arraignment, and with full reservations of all of his rights to further, move, demur or otherwise plead to the affidavit herein filed against him, with respect to the charges therein laid, respectfully shows this Honorable Court that the affidavit upon which this prosecution is based should be declared illegal, null and void and that said affidavit should be quashed and set aside, and held to be of no further effect for the following, among other reasons, to-wit:

1: Defendant, a resident of and having his headquarters at Dallas, Texas, is a regional representative of Keystone Readers' Service, Inc., a Pennsylvania corporation with its main office in the City of Philadelphia, Pennsylvania, and in furtherance of the business of such corporation is, and has been for many years, engaged in house-to-house solicitation of subscriptions for nationally known and distributed magazines and periodicals all of which are printed and published in [fol. 4] various states other than Louisiana. Each subscription order is sent by mail to the proper publisher, who, upon acceptance of same, sends the particular magazine or periodical by mail directly to the subscriber. The defendant was engaged in such house-to-house solicitation in the City of Alexandria at the time of his arrest.

2. Penal Ordinance No. 500, as amended, of the City of Alexandria prohibits, inter alia, the practice of

going in and upon the private residences in the city by solicitors and others without the prior consent of the owners or occupants of such residences for the purpose of soliciting orders for the sale of goods, wares, and merchandise. Such solicitation without prior consent is declared to be a nuisance and is punishable as a misdemeanor.

3. Said ordinance violates the due process clauses of the Constitution of Louisiana (Art. I, Section 2) of the Fourteenth Amendment to the Constitution of the United States because, among other reasons, the ordinance arbitrarily, unreasonably and unduly burdens and curtails and in effect, denies the fundamental right of the defendant and others similarly situated to engage in a lawful private business or occupation.

4. Said ordinance, as applied to defendant and others similarly situated, imposes an undue or discriminatory burden upon interstate commerce, and in effect is tantamount to a prohibition of such commerce, in violation of Art. I, Section 8, Clause 3 of the Constitution of the United States.

[fol. 5] 5. Said ordinance, as applied to defendant and others similarly situated, violates Art. I, Section 3 of the Constitution of the State of Louisiana and Amendment I and Amendment XIV, Section 1 to the Constitution of the United States, in that it abridges the freedom of speech or of the press because, among other reasons, it places an arbitrary, unreasonable and undue burden upon the well established method of distribution and circulation of lawful magazines and periodicals; and, in effect, is tantamount to a prohibition of the utilization of such method.

Wherefore, Mover Prays:

1. That this motion to quash be sustained and that the ordinance and affidavit upon which this prosecution is based be declared illegal, null and void and contrary to the provisions of the Constitution of the State of Louisiana, and the Constitution of the United States.

2. For such additional relief as law, equity, or the nature of the case may permit.

By his attorneys: T. C. McLure, Jr., J. Harry Wagner, 2238 Fidelity-Philadelphia Trust Bldg., Phila-

delphia 9, Pa.; E. Russell Shockley, 1719 Packard Building, Philadelphia 2, Pennsylvania.

[fol. 6] *Duly sworn to by T. C. McLure, Jr. Jurat omitted in printing.*

[fol. 7] **CITY COURT OF ALEXANDRIA WARD, RAPIDES PARISH, LOUISIANA**

[Title omitted]

Bill of Exceptions—Filed April 1, 1950

Be it Remembered, that before the trial of this cause the defendant filed a motion to quash the affidavit and charge, which motion is hereto attached and made a part hereof and incorporated herein, and said motion was overruled by the court, to which ruling of the court counsel for the defendant then and there excepted and reserved a Bill of Exceptions which, after having been submitted to the City Attorney, he tenders to the Court for signature.

J. Harry Wagner, 2238 Fidelity-Philadelphia Trust Bldg., Philadelphia, Pennsylvania; E. Russell Shockley, 1719 Packard Building, Philadelphia, Pennsylvania; T. C. McLure, Jr., 606 Murray Street, Alexandria, Louisiana, Attorneys for Jack H. Breard, by T. C. McLure, Jr.

Signed and allowed within the time allowed by the Court. Alexandria, Louisiana, this 1st day of April, 1950.

Gus Voltz, Judge.

MINUTES

Alexandria, Louisiana,
June 29, 1949.

Case came on this day for trial, and on motion of counsel for City of Alexandria, Louisiana and counsel for defendant, Jack H. Breard, case continued without date.

Alexandria, Louisiana,
March 5, 1950.

Counsel for defendant filed in Open Court a Motion to Quash, which was overruled, and case was set for trial on April 1, 1950.

Alexandria, Louisiana,
April 1, 1950.

Counsel for defendant, Jack H. Breard, filed a Bill of Exceptions to the ruling of the Court upon the Motion to Quash.

Alexandria, Louisiana,
April 1, 1950.

This case came on this day for trial, upon agreed stipulations of fact, filed by counsel for City of Alexandria and Jack H. Breard. The Court considering the law and the evidence to be in favor of the City of Alexandria and against the said Jack H. Breard, the said Jack H. Breard was found guilty and sentenced to pay a fine of Twenty-Five and No/100 (\$25.00) Dollars, and in default of payment of fine, to serve thirty (30) days in the city jail, subject to work on streets of said city.

Alexandria, Louisiana,
April 1, 1950.

Counsel for defendant, Jack H. Breard, requests a suspensive and devolutive appeal, which was granted, returnable to the Honorable Supreme Court of the State of Louisiana, at New Orleans, Louisiana, on the 15th day of May, [fol. 9] 1950. Appeal bond fixed in the sum of One Hundred and No/100 (\$100.00) Dollars.

Alexandria, Louisiana,

April 1, 1950.

Counsel for defendant, Jack H. Breard, filed in Open Court a suspensive and devolutive appeal bond, in the sum of One Hundred and No/100 (\$100.00) Dollars.

[fol. 10]

[File endorsement omitted]

CITY COURT ALEXANDRIA WARD, PARISH OF RAPIDES, STATE OF LOUISIANA

[Title omitted]

STIPULATION OF FACTS—Filed April 1, 1950

And now, to wit, this 1st day of April, 1950, the parties to the above entitled cause, acting by and through their respective attorneys, hereby stipulate and agree as follows:

1. (a) The City of Alexandria is a municipal corporation organized, created and functioning under the laws of the State of Louisiana and is located in Rapides Parish in that State. There is in effect in the City of Alexandria Penal Ordinance No. 500, which was adopted in its present form October 6, 1947. The ordinance prohibits, *inter alia*, the practice of going in and upon private residences in the City by solicitors without the prior consent of the owners or occupants of such residences for the purpose of soliciting orders for the sale of goods, wares and merchandise. Such solicitation without prior consent is declared to be a nuisance and is made punishable as a misdemeanor. A copy of such ordinance in its present form marked "Exhibit A" is attached to and hereby made a part of this Stipulation.

(b) Said penal ordinance, or one of similar import, has been on the statute books of the City of Alexandria, Louisiana, for many years. Such ordinance was enacted by the City Council, among other reasons, because some householders complained to those in authority that in some instances, for one reason or another, solicitors were undesirable or discourteous, and some householders complained that, whether a solicitor was courteous or not, they did not desire any [fol. 11] uninvited intrusion into the privacy of their home.

2. The defendant, Jack H. Breard, who resides in Dallas, Texas, was arrested on June 28, 1949 while going from door to door in the City of Alexandria, soliciting subscriptions for nationally known magazines on behalf of Keystone Readers Service, Inc., solely on the ground that he had not obtained the prior consent of the owners or occupants of such residences required by Penal Ordinance No. 500.

3. Keystone Readers Service, Inc., (hereinafter referred to as Keystone), a Pennsylvania corporation with its main office at 220 South 16th Street, Philadelphia, Pennsylvania, is and has been for many years, engaged on a national scale in the house to house solicitation of subscriptions for nationally known and distributed magazines and periodicals, including among others, The Saturday Evening Post, Ladies Home Journal, Country Gentleman, Holiday, Newsweek, American Home, Cosmopolitan, Esquire, Pie, Parents, Today's Woman and True. Such periodicals and magazines are published for profit and are printed and published in various States, (other than Louisiana), particularly in the Cities of Philadelphia, Chicago and New York. Keystone operates under contracts with the publishers of such magazines and periodicals.

4. Each issue of the nationally known periodicals and magazines referred to in the preceding paragraph contains information of a public character, fiction, advertising, views on political, social and economic questions and material devoted to literature, history, current events, industry, the sciences and arts and, as such, enjoy second class mail privileges under the postal laws of the United States.

5. Keystone in the furtherance of its business has divided the United States into nine regional areas, each of which is in charge of a franchised regional representative, who in turn utilizes crews of solicitors to go from house to house in the various cities and towns in his regional area and solicit [fol. 12] subscriptions for the aforesaid magazines and periodicals. During the year 1948, the total subscription value of subscriptions obtained by Keystone Solicitors throughout the country amounted to \$5,319,423.40.

6. All solicitors of Keystone are carefully selected according to a well defined plan. Before any person is authorized by Keystone to solicit subscriptions, he is carefully investigated as to his moral character, honesty and integrity, personal appearance, educational qualifications and standing in his home community. If the investigation is

favorable, such person is selected as a solicitor and is furnished with a Keystone credential card identifying him as being authorized by Keystone to act as a solicitor and reciting the limits of his authority.

7. Upon being selected, each solicitor is given a course in salesmanship and is particularly trained and directed (a) to display his credentials to a prospective subscriber and to observe a courteous and gentlemanly manner in soliciting, (b) to retire immediately after making the purpose of his call known if the prospect does not wish to subscribe to the magazines and periodicals and, (c) to refrain from going upon any premises where there is displayed a card or sign indicating that solicitors are not welcome or wanted. A crew manager is in charge of each crew of solicitors. It is the duty of every crew manager to see to it that his crew of solicitors operates in accordance with their training and instructions. Any infractions of the above training and instructions result in the suspension or withdrawal of authority of a solicitor depending upon the particular circumstances.

8. Keystone sends a card from its home office to new subscribers acknowledging receipt of the subscription to which is attached a business reply verification card which, among other things, requests information as to the subscriber's impression of the solicitor responsible for the subscription. A copy of such cards marked "Exhibit B" is attached to and hereby made a part of this stipulation.

[fol. 13] 9. The National Association of Magazine Publishers, Inc., (formerly known as The National Publishers Association, Inc.),—a membership and trade organization of the magazine publishing industry whose members publish approximately 400 nationally known and distributed magazines with a combined circulation of 140 million copies per issue. The Association sponsors and maintains a Central Registry Plan, whereby subscription agencies, like Keystone, and publishers having their own field selling subscription organizations expressly agree in writing to adhere to prescribed standards of fair practice in magazine subscription solicitation and to register the name, address and physical description of each of their authorized solicitors. Every signatory to Central Registry Agreement is expressly pledged to assume full responsibility for all money collected by its authorized solicitors and to fill or cause to be filled all subscriptions up to the amount paid by each subscriber.

The Central Registry list of signatories is furnished from time to time to local police authorities, Better Business Bureaus and Chambers of Commerce. Keystone is a signatory to the Central Registry Agreement and each authorized solicitor of Keystone is individually registered with the Central Registry and is pledged to abide by the prescribed standards of fair practice.

10. Solicitors of Keystone are not permanently assigned to any particular city or town but move from locality to locality within their regional area in carrying on their solicitation activities. The solicitors normally spend one or two days in each city or town depending upon its size. Keystone and its solicitors are engaged primarily in the procurement of new subscribers to magazines and periodicals of the publishers. Solicitors are compensated entirely upon a commission basis.

11. Keystone requires its solicitors and crew managers to visit the local police authorities of each city or town and identify themselves before starting their solicitation work [fol. 14] in such place and to procure any permit or license which may be required under a local ordinance. The local Better Business Bureau or Chamber of Commerce, if any, is likewise visited or notified. These local authorities or bodies by referring to the Central Registry list in their possession are thus readily able to ascertain that the solicitors represent an accredited subscription agency.

12. Solicitors of Keystone at no time make deliveries of any magazine or periodical. When a willing subscriber is found, the solicitor fills out and signs an official Keystone order form and collects the full subscription price. The official Keystone order forms, which are put up in pads and serially numbered, are divided into three connected tabs designated respectively as "Order to Publisher", "Office Record" and "Subscriber's Receipt". The "Subscriber's Receipt" is left with the subscriber and the other two tabs are sent through the United States Mail to the particular regional representative, who after noting the information on his records, sends the two tabs by United States Mail to Keystone Readers Service, Inc., at its home office in the City of Philadelphia. The home office retains the tab designated as "Office Record" and forwards the tab designated as "Order to Publisher" by United States Mail to the proper publisher who, upon acceptance of the subscrip-

tion, sends the particular periodical or magazine through the United States Mail directly to the subscriber. Such official order forms are printed for different periodicals or magazines. A copy of the order form for publications of The Curtis Publishing Company, which is typical, is attached to and hereby made a part of this stipulation as "Exhibit C".

13. The solicitation of subscriptions in the field regularly accounts for from 50% to 60% of the total annual subscription circulation of nationally-distributed magazines which submit verified circulation reports to the Audit Bureau of Circulations (commonly known as ABC), an independent organization, which regularly verifies and issues reports [fol. 15] concerning the volume of circulation of most newspapers and magazines for the benefit of advertisers. During the period from 1925 to date, the average circulation per issue of such magazines attributable to field subscription solicitation, as distinguished from direct-mail subscriptions and single-copy newsstand sales, has amounted to more than 30% of the total average annual circulation per issue, as appears from "Exhibit D" hereto annexed and made a part of this Stipulation.

14. Penal Ordinance No. 500 is a so-called Green River Ordinance as it is based upon an ordinance originally promulgated by the town of Green River, Wyoming. Green River Ordinances were enacted in over 400 cities throughout the nation during the period from 1935 to 1939. While the exact number of such ordinances enacted since 1939 is not known, many additional cities and towns have enacted such ordinances since 1939, particularly since World War II. Keystone's solicitors encounter these ordinances most frequently in the Southern and Western States. Practically every city and important town in the State of Louisiana has adopted such an ordinance.

15. The itinerant solicitors of Keystone have a low price unit to sell (subscription prices range generally from \$2.00 to \$6.00 per year) and the present method of operation by Keystone and its itinerant solicitors is considered by them to be the most effective and economical method.

16. On June 28, 1949, a crew of Keystone solicitors arrived in the City of Alexandria, Louisiana, for the purpose of house-to-house solicitation. Jack H. Breard, the defendant, was in charge of this crew. Mr. Breard is a

franchised regional representative of Keystone, residing at Dallas, Texas, whose regional franchise includes the States of Texas, Louisiana, Missouri, Arkansas, Colorado, Oklahoma, Nebraska and Kansas with headquarters in Dallas, Texas. The solicitors upon identifying themselves to the Chief of Police of the City of Alexandria were referred to Frank H. Peterman, Attorney for the City of Alexandria, [fol. 16] who advised them that under the provisions of Penal Ordinance No. 500 the solicitors could not lawfully make house-to-house solicitations without obtaining the prior consent of the occupants of such houses. Mr. Breard advised Mr. Peterman that counsel for Keystone had advised that an ordinance like Penal Ordinance No. 500 was unconstitutional; therefore, he and the other solicitors proposed to engage in house-to-house solicitation without the prior consent of the owners or occupants of such houses. As indicated earlier in this stipulation, the defendant was arrested for engaging in such solicitation.

Frank H. Peterman, Attorney for the City of Alexandria; T. C. McLure, Jr., 606 Murray St., Alexandria, La.; J. Harry Wagner, 2238 Fidelity-Philadelphia Trust Bldg., Philadelphia, Pa.; E. Russell Shockley, 1719 Packard Bldg., Philadelphia, Pa., Attorneys for Jack H. Breard.

[fol. 17] EXHIBIT "A" TO STIPULATION

PENAL ORDINANCE No. 500

"An ordinance regulating solicitors, peddlers, hawkers, itinerant merchants or transient vendors of merchandise in the city of Alexandria, Louisiana; declaring it to be a nuisance for those engaging in such pursuits to go in or upon private residences without having been requested or invited to do so; providing penalties for the violation hereof; repealing all ordinances in conflict herewith."

Section 1. Be it ordained by the council of the city of Alexandria, Louisiana, in legal session convened that the practice of going in and upon private residences in the City of Alexandria, Louisiana by solicitors, peddlers hawkers, itinerant merchants or transient vendors of mer-

chandise not having been requested or invited so to do by the owner or owners, occupant or occupants of said private residences for the purpose of soliciting orders for the sale of goods, wares and merchandise and/or disposing of and/or peddling or hawking the same is declared to be a nuisance and punishable as such nuisance as a misdemeanor.

Section 2. Be it further ordained, etc., that any person violating the provisions of this ordinance shall upon conviction thereof be fined not more than \$100.00 or imprisoned not more than 30 days or both fined and imprisoned in the discretion of the Court.

Section 3. Be it further ordained, etc., that the provisions of this ordinance shall not apply to the sale, or soliciting of orders for the sale, of milk, dairy products, vegetables, poultry, eggs and other farm and garden produce so far as the sale of the commodities named herein is now authorized by law.

Section 4. Be it further ordained, etc., that it being deemed by the Council of the City of Alexandria, Louisiana that an emergency exists, this ordinance shall go into [fol. 18] effect immediately upon its passage.

Section 5. Be it further ordained, etc., that all ordinances or parts of ordinances in conflict herewith are hereby repealed.

_____, Mayor.

CERTIFICATE

I hereby certify that the above is a true copy of an ordinance adopted by the City Council at its regular meeting on October 6, 1947.

_____, Secretary-Treasurer.

[fol. 19]

EXHIBIT "B" TO STIPULATION

KEystone READERS' SERVICE

220 S. 16th Street, Philadelphia 2, Pa.

DEAR SUBSCRIBER:

This card is to thank you for the subscription which we have received in your name.

In order that we may be sure your subscription complies with the Postal Laws and Regulations, we will appreciate

it if you will answer the questions on the attached card on which no postage stamp is necessary.

Your subscription will be entered immediately upon receipt of your reply. Thank you.

Very truly yours, Keystone Readers' Service.

First Class Permit No. 5344 (Sec. 510, P.L. & R.) Philadelphia, Pa.

BUSINESS REPLY CARD

No postage stamp necessary if mailed in United States 2c postage will be paid by the Keystone Readers' Service 220 S. 16th Street, Philadelphia 2, Pa.

[fol. 20] **EXHIBIT "C" TO STIPULATION**

ORDER TO PUBLISHER

New () Renewal ()

Name

Street

City

Zone State

(Please print name and address)

The Saturday Evening Post for a term of	\$
Ladies' Home Journal for a term of	\$
Holiday for a term of	\$
Country Gentleman for a term of	\$

(R. F. D. addresses and towns under 2500 only; except renewals.)

I certify that the full amount as indicated above was paid to me.

Solicitor: Date:

() If gift subscription, check here and fill in name and address of donor on reverse of this order. Do not detach this form from office record.

[fol. 21]

Office Record

I have this day sold the order indicated below to:

Name

Street

City

Zone

State

(Please print name and address)

The Saturday Evening Post for a term of	\$
Ladies' Home Journal for a term of	\$
Holiday for a term of	\$
Country Gentleman for a term of	\$
(R. F. D. addresses and towns under 2500 only; except renewals.)	

Solicitor

Date

District

[fol. 22]

Subscriber's Receipt

Received from

\$ in payment for the following order:

The Saturday Evening Post for a term of	\$
Ladies' Home Journal for a term of	\$
Holiday for a term of	\$
Country Gentleman for a term of	\$
(R. F. D. addresses and towns under 2500 only; except renewals.)	

Do not pay if offer varies from terms printed on reverse.
This receipt good only for publications above.

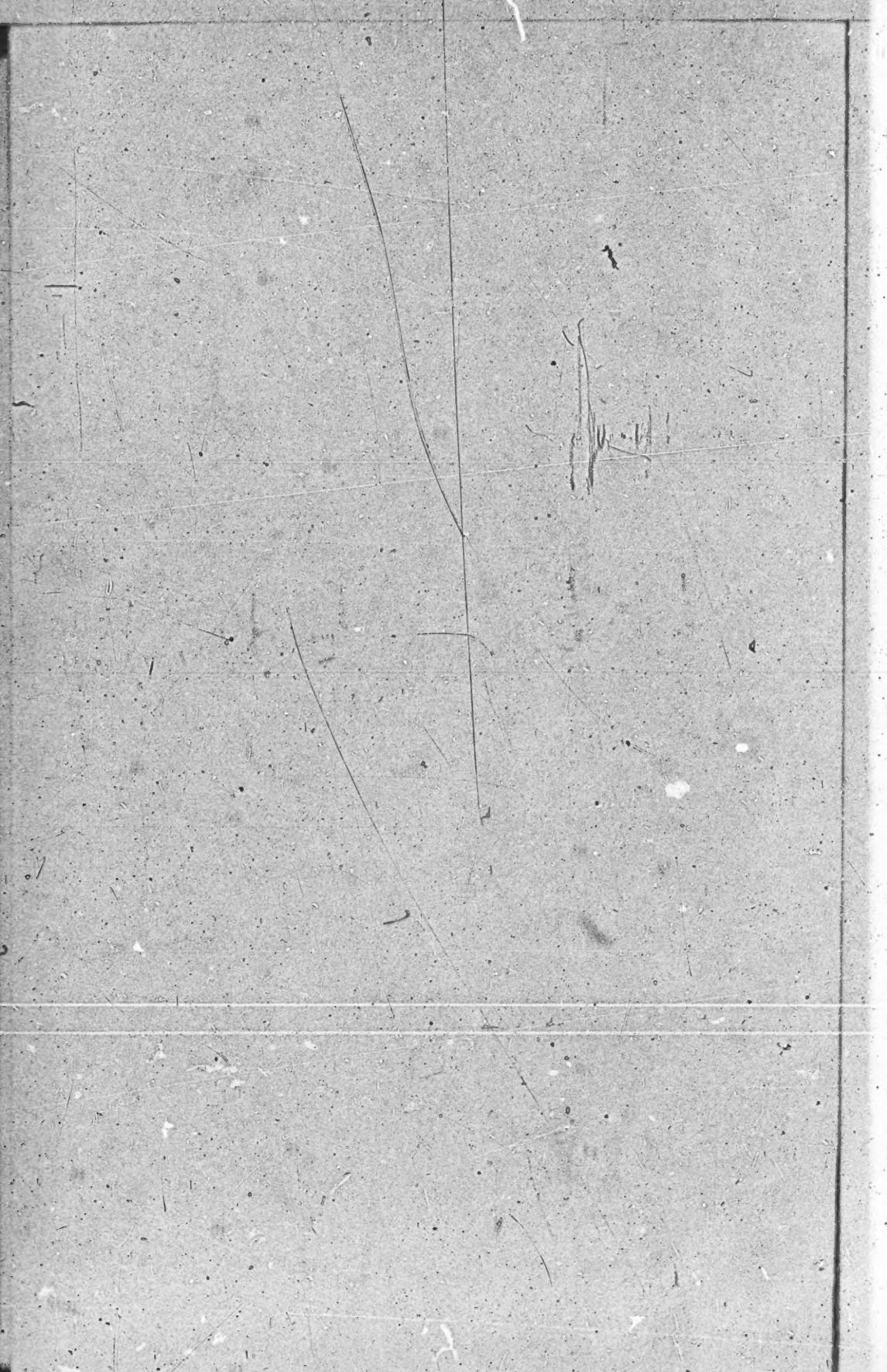
Solicitor

Date

Keystone Readers' Service

220 S. 16th Street, Philadelphia 2, Penna.

(Here Follows 1 Paster, side folio 23.)



[fol. 23]

EXHIBIT "D" TO STIPULATION

AVERAGE CIRCULATION PER ISSUE OF A B C MAGAZINES

(Second Six Months of Each Year)

1925-1948

Year	Subscription Circulation						Single Copy		Total	
	Solicitation		Mail		Total		Sales		Circulation	
	No. per Issue	% of Total	No. per Issue	% of Total	No. per Issue	% of Total	No. per Issue	% of Total	No. per Issue	% of Total
	1	2	3	4	5	6	7	8	9	10
1925	22.8	37.2	18.7	30.5	41.5	67.7	19.8	32.3	61.3	100
1926	24.8	37.7	20.4	31.0	45.2	68.7	20.6	31.3	65.9	100
1927	26.6	37.9	21.8	31.0	48.4	68.9	21.8	31.1	70.2	100
1928	27.8	37.3	22.7	30.5	50.5	67.8	24.0	32.2	74.5	100
1929	27.1	35.1	22.1	28.6	49.2	63.7	28.0	36.3	77.2	100
1930	28.3	35.9	23.2	29.4	51.5	65.3	27.4	34.7	78.8	100
1931	27.0	35.9	22.0	29.3	49.0	65.2	26.1	34.8	75.1	100
1932	25.4	36.1	20.8	29.5	46.2	65.6	24.2	34.4	70.3	100
1933	25.2	36.3	20.6	29.7	45.8	66.0	23.6	34.0	69.3	100
1934	26.8	36.0	21.8	29.3	48.6	65.3	25.9	34.7	74.5	100
1935	27.1	35.7	22.2	29.2	49.3	64.9	26.7	35.1	76.0	100
1936	28.4	34.1	23.2	27.8	51.5	61.9	31.7	38.1	83.2	100
1937	30.0	33.6	24.5	27.4	54.5	61.0	34.8	39.0	89.3	100
1938	31.8	34.5	26.0	28.2	57.8	62.7	34.4	37.3	92.2	100
1939	31.6	33.7	25.8	27.5	57.4	61.2	36.4	38.8	93.8	100
1940	30.7	32.4	25.1	26.4	55.8	58.8	39.0	41.2	94.8	100
1941	31.2	30.9	25.6	24.9	56.4	55.8	44.6	44.2	100.9	100
1942	31.6	29.9	25.8	24.4	57.4	54.3	48.3	45.7	105.7	100
1943	31.0	27.9	25.4	23.9	56.4	50.8	54.9	49.2	111.3	100
1944	30.3	26.3	24.8	21.3	55.1	47.6	60.8	52.4	116.0	100
1945	30.5	25.2	25.0	20.6	55.5	45.8	65.7	54.2	121.2	100
1946	36.6	25.7	29.7	24.9	66.3	50.6	64.6	49.4	130.9	100
1947	40.5	20.8	33.1	24.5	73.6	54.3	61.9	45.7	135.6	100
1948	43.4	30.7	35.5	25.2	78.9	55.9	62.2	44.1	141.1	100
Totals	716.5		585.8		1301.8		907.4		2208.1	
24-year Average	29.8	33.2%	24.4	27.2%	54.2	60.4%	37.8	39.6%	92.0	100%

NOTES:

1. Columns 1, 3, 5, 7 and 9 show circulation in millions of copies per issue for all general magazines and farm publications reporting to Audit Bureau of Circulations. Circulation of technical and business publications and comics is not included.
2. Circulation figures shown in Columns 5, 7 and 9 are based upon published circulation reports of Audit Bureau of Circulations for second six months of each year, as compiled by Magazine Advertising Bureau, New York, N. Y.
3. Circulation figures shown in Columns 1 and 3 are, respectively, 55% and 45% of total annual subscription circulation figures shown in Column 5.



[fol. 23a-24] IN THE SUPREME COURT OF LOUISIANA

Docket No. 39898

FRANK H. PETERMAN, for Plaintiff and appellee
J. HARRY WAGNER, E. RUSSELL SHOCKLEY, and T. C. McLURE
Jr. for Defendant and appellant

DOCKET ENTRIES

1950

April 27 Entering case and filing records from the City Court, Alexandria for the parish of Rapides No. 9225-D Gus Voltz, Judge.

April 27th. Fixed for June 9th., 1950.

April 27 Counsel notified.

May 9th Motion for permission to file briefs as amicus Curiae.

May 25th. Brief of Amicus Curiae.

May 29 Brief for defendant-appellant.

May 31st. Briefs for appellee.

June 9 Called, argued and submitted.

June 30 Final judgment and opinion.

Sept. 25th. Petition for appeal and order allowing appeal.

Sept. 25th. Assignment of Errors and prayer for reversal.

Sept. 25th. Bond for cost.

Sept. 25th. Supersedeas Bond.

Sept. 25th. Statement as to Jurisdiction.

Oct. 4th. Motion to dismiss appeal to the Supreme Court of the U. S.

Oct. 13th. Stipulation.

Oct. 13th. Acknowledgment and acceptance of service.

[fol. 25] Cost Bond on Appeal for \$100 approved and filed April 1, 1950, omitted in printing.

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[fol. 26] Clerk's Certificate to foregoing transcript omitted in printing.

[fol. 27] IN SUPREME COURT OF LOUISIANA

APPELLANT'S SPECIFICATION OF ERRORS

(Set forth in appellant's printed brief filed with Supreme Court of Louisiana.

1. The lower court erred in overruling appellant's motion to quash; in sustaining Penal Ordinance No. 500 of the City of Alexandria, Louisiana; and in finding the appellant guilty of violating such ordinance.
2. The lower court erred in overruling appellant's motion to quash and in holding that Penal Ordinance No. 500 of the City of Alexandria, Louisiana did not violate the Due Process Clauses of the Constitution of the State of Louisiana (Art. I, Section 2) and of the Fourteenth Amendment to the Constitution of the United States.
3. The lower court erred in overruling appellant's motion to quash and in holding that Penal Ordinance No. 500 of the City of Alexandria, Louisiana as applied to appellant and other solicitors similarly situated did not violate the Commerce Clause (Art. I, Section 8, Clause 3) of the Constitution of the United States.
4. The lower court erred in overruling appellant's motion to quash and in holding that Penal Ordinance No. 500 of the City of Alexandria, Louisiana, as applied to appellant and other solicitors similarly situated did not violate Art. I, Section 3 of the Constitution of the State of Louisiana and Amendment I and Amendment XIV, Section 1 to the Constitution of the United States which guarantees the freedom of speech and of the press.

[fol. 28]

IN SUPREME COURT OF LOUISIANA

No. 39898

CITY OF ALEXANDRIA, LOUISIANA

VS.

JACK H. BREARD

Appeal from the City Court, Alexandria Ward, for the Parish of Rapides, Hon. Gus Voltz, Judge.

OPINION

MOISE, Justice:

Jack H. Breard, a resident of Dallas, Texas, and the regional representative of Keystone Readers Service, Inc., which engages in the house-to-house solicitation of magazine subscriptions on a nation-wide scale, has appealed his conviction (and the sentence of \$25.00 fine or 30 days in the city jail of Alexandria, imposed thereunder), which arose out of his admitted violation of Ordinance No. 500 of the City of Alexandria, entitled:

“An Ordinance Regulating Solicitors, Peddlers, Hawkers, Itinerant Merchants or Transient Vendors of Merchandise in the City of Alexandria, Louisiana: Declaring it to be a Nuisance for those Engaging in Such Pursuits to go in or upon Private Residences Without Having Been Requested or Invited to do so: Providing Penalties for the Violation Hereof; Repealing all Ordinances in Conflict Herewith.”

Appellant contends that said ordinance is unconstitutional in the following respects:

(1) It arbitrarily, unreasonably and unduly burdens, and in effect, curtails, and in effect, denies the fundamental right of such persons to engage in a lawful private business or occupation, thus violating the Due Process Clauses of the Constitution of Louisiana (Art. I, Section 2) and of the Fourteenth Amendment to the Constitution of the United States.

(2) As applied to appellant and other solicitors similarly situated, it imposes an undue and discriminatory burden upon interstate commerce, and, in effect, is tan-

[fol. 29] tantamount to a prohibition of such commerce, in violation of Section 8, Art. I, Clause 3 of the Constitution of the United States.

(3) As applied to appellant and other solicitors similarly situated, it violates Art. I, Section 3 of the Constitution of the State of Louisiana and Amendment I and Amendment XIV, Section 1 of the Constitution of the United States, in that it abridges the freedom of speech or of the press because it places an arbitrary, unreasonable and undue burden upon a well established method of distribution and circulation of lawful magazines and periodicals, and, in effect, is tantamount to a prohibition of the utilization of such method.

The identical ordinance was before this Court in the case of *City of Alexandria v. Jones*, decided February 13, 1950 reported in 45 So. (2d) 79, ——La.—. There the defendant was engaged in soliciting orders for photographs, while here the defendant is engaged in soliciting orders for magazine subscriptions. We affirmed the judgment and conviction in the Jones case, and we see no reason to do otherwise in the present case, for the reasons hereinafter set forth.

This same appellant, Breard, attacked (unsuccessfully) the constitutionality of a similar ordinance of the City of Alexandria in the case of *Breard v. City of Alexandria*, 69 F. Supp. 722 (U. S. D. C., W. D., La., 1947.) The earlier ordinance merely prohibited uninvited solicitation and declared it to be unlawful; the present ordinance declares it to be a nuisance and punishable as a misdemeanor. For all practical purposes, however, the two ordinances are identical.

A similar ordinance of the City of Shreveport was held constitutional and valid by this Court in *City of Shreveport v. Cunningham*, 190 La. 481, 182 So. 649 (1938).

[fol. 30] We are therefore irresistibly drawn to the conclusion that the present suit is but another phase of the campaign being waged so grimly to have these "Green River" ordinances invalidated and declared repugnant to the United States Constitution. Since appellant's field embraces solicitation of orders for printed matters (magazines) which are actually distributed by the United States mail, he has raised the additional question of the freedom of the press. But the real issue remains the same—the

power of the local governing authority to regulate the conduct of businesses of a local nature, in the interest of the public good, under the general delegation of police power from the State; the reasonableness of the regulation; and whether it is capable of impartial administration without regard to the discretion or judgment of the administering official, board, etc.

The ordinance in question reads as follows:

“Penal Ordinance No. 500

“An Ordinance Regulating Solicitors, Peddlers, Hawkers, Itinerant Merchants or transient Vendors of Merchandise in the City of Alexandria, Louisiana: Declaring it to be a Nuisance for those Engaging in such Pursuits to go in or upon Private Residences Without Having Been Requested or invited to do so: Providing Penalties for the Violation Hereof; Repealing all Ordinances in Conflict Herewith.

“Section 1. Be it Ordained by the Council of the City of Alexandria, Louisiana, in legal session convened that the practice of going in and upon private residences in the City of Alexandria, Louisiana by solicitors, peddlers, hawkers, itinerant merchants or transient vendors of merchandise not having been requested or invited so to do by the owner or owners, occupant or occupants of said private residences for the purpose of soliciting orders for the sale of goods, wares and merchandise and/or disposing of and/or peddling or hawking the same is declared to be a nuisance and punishable as such nuisance as a misdemeanor.

[fol. 31] “Section 2. Be it Further Ordained, Etc., that any person violating the provisions of this ordinance shall upon conviction thereof be fined not more than \$100.00 or imprisoned not more than 30 days or both fined and imprisoned in the discretion of the Court.

“Section 3. Be it Further Ordained, Etc., that the provisions of this ordinance shall not apply to the sale, or soliciting of orders for the sale, of milk, dairy products, vegetables, poultry, eggs and other farm and garden produce so far as the sale of the commodities named herein is now authorized by law.

"Section 4. Be it Further Ordained, Etc., that it being deemed by the Council of the City of Alexandria, Louisiana, that an emergency exists, this ordinance shall go into effect immediately upon its passage.

"Section 5. Be it Further Ordained, Etc., that all ordinances or parts of ordinances in conflict herewith are hereby repealed."

That the state and its subdivisions have such authority within certain constitutional limitations is a well-settled principle of constitutional law and needs no further comment. "In the exercise of its police power and in the interest and for the protection of the public, a state may, without denial of the equal protection of the laws, reasonably regulate a business affected with a public interest, or a useful trade, occupation, or profession which may prove injurious to the public. * * * Furthermore, within proper limitations, the legislature may, without denial of equal protection of the laws, classify businesses and occupations for purposes of regulation, provide different rules for different classes, limit a regulation to a particular kind of business, extend to some persons privileges denied to others, or impose restrictions on some but not on others, where the classification or discrimination is based on real differences in the subject matter and is reasonable, and the legislation affects alike all persons pursuing the same business under the same conditions. * * * Any classification or discrimination must not be arbitrary or unreasonable; and the legislation must not be discriminatory in the sense of applying unequally to persons pursuing or engaged in the same calling, profession, or business under the same or like conditions and circumstances. The object of legislation regulating a business must be the public good and not benefit to individuals or classes; and a statute allowing one class of persons to engage in what is presumptively a legitimate business, while denying such right to others, is unconstitutional unless it is based on some principle which may reasonably promote the public health, safety, or welfare." *Corpus Juris Secundum, verbo "Constitutional Law", Section 510, pp. 1012 ff.*

Ordinance No. 500 of the City of Alexandria is by its nature a protective measure, conceived and designed to give the occupants of the home (particularly the housewife her-

self) and their property additional security against the depredations of the lawless, who often under the guise of soliciting or peddling gain entrance for the purpose of (a) planning a future crime or (b) perpetrating a crime immediately. We are most willing to admit that the solicitors for Keystone Readers Service, Inc., of whom Breard is one, are of the highest character. That does not alter the fact that there are many types of solicitors who are not as carefully selected, nor as reliable, and whose merchandise does not bear the same stamp of general approval as that furnished by Breard's employer. The protecting purpose of the ordinance is proven by the fact that it is not directed against all soliciting, etc., but only against soliciting in *residences without invitation*. Solicitors, peddlers, hawkers, itinerant merchants and transient vendors can still ply their trade in the commercial districts without restriction.

The ordinance provides for a blanket prohibition of solicitation without invitation, save for food vendors, who are specifically exempt. There is no opportunity for any public official either to grant or to arbitrarily withhold permission to solicit, nor any opportunity for the abuse of administrative discretion. The ordinance (a) defines the offense, (b) provides for punishment therefor, (c) exempts from its scope purveyors of food as a special category of vendors, (d) provides for immediate passage, and (e) provides for repeal of conflicting ordinances. Certainly it is impersonal in its operation as to all alike. It makes no distinction between resident solicitors and non-resident solicitors. It is purely a regulation, a limited regulation, by a municipality performing an ordinary function of government, the protection of the home.

Proceeding from what we consider to be the real issue of the case to the special contentions made by the defendant—the violation of the Due Process provisions of the State and Federal constitutions, the interference with interstate commerce, and the denial of the freedom of the press, we shall limit discussion to the last two only, the first being embraced within the conclusion reached as to the reasonableness and impartial administration of the statute.

[fol. 34] The ordinance imposes no tax, no license. It is a prohibition of an activity on local territory, involving the *problematical* sale of a commodity originating in another

state, which is actually distributed through the United States Mails. It imposes no burden on the distribution itself, nor on the manufacture of the commodity, nor on any phase of the transportation from one place to another of that commodity.

We fail to see how this ordinance constitutes a denial of the freedom of the press. It imposes no previous censorship on publication of these magazines for which orders are solicited, nor does it interfere with their distribution, since the method of distributing magazines is either direct to the patrons via the mails, or through newsstands. No one has made the claim that Breard or his co-solicitors actually sell the magazines copy by copy from door to door. That indeed would be a *reductio ab absurdum*.

A salient feature of this case, which seems to have escaped previous attention, is that, transcendent over the rights which appellant claims are infringed by this ordinance, is a fundamental principle of the law—a man's home is his castle. No one has any vested prerogative to invade another's privacy. Each community knows its own problems best; and if local governments, being as they are closest to the popular will, choose to exercise the sovereign's right to protect a particular class of comparatively defenceless citizens—housewives, we will not intervene to destroy that protection.

The litigation here relates to the power of the municipality to enact the ordinance and the legality of the [fol. 35] enactment. The appellant has contended that the enactment is illegal because it offends the commerce clause and the freedom of the press. On the question of construction we should likewise take into consideration other amendments of the Constitution of the United States so as not to enlarge the grant of power contended for by the opponents and not to diminish the right of enactment for protection as contended for by the municipality. The Fifth Amendment of the Constitution of the United States is to protect the man against the nation; the Fourteenth Amendment to shield him in the security of the home in his person and property rights against the tyranny of the state; the Tenth Amendment to prevent the Congress and the Executive Department from exercising any power not delegated by the Constitution, and all powers not so specifically delegated are to be exercised by the State or the people. Its purposes

were to let the government have only the necessary powers, the State all those powers not expressly reserved by enumeration in the Federal Constitution. The constitution of the United States and these amendments set forth specific bounds to the activities of Congress, necessary safeguards to the sovereignty of the States, puts defenses around the man and the security of his person and property from unlawful search and seizure amplified by Amendment Four of the Constitution; and in addition to these it also establishes a judicial department to see that these limitations be not transgressed. "The Courts were designated," wrote Hamilton, "to be an intermediate body between the people and the legislature and the Executive Department in order among other things to keep these departments within the limits assigned to their authority." These Amendments, [fol. 36] and particularly Amendment Ten of the Constitution of the United States, should not be "shorn of all their vitality."

So rapidly do the rights and powers of business grow by what it feeds on that the State is being rapidly pushed out of the Union as a self-governing entity, and what is unbelievable—even to those who see it—is that the unbalancing of constitutional relations, this betrayal of the necessary and just sovereignty of the State, has been conceived, promoted without a closed season by members of the Congress elected by the people. Any appearance here of criticism as distinguished from earnest conviction would be an error of the mind and not of the heart. The right of the sovereign to safeguard the safety of the home and to better insure a domestic tranquillity throughout the nation is a purpose set out in the preamble of the Constitution of the United States. It is true that the preamble is not one of the provisions of the Federal Constitution, and it is also true that the constitution emanated from the people and not the states and that it was ordained to insure a more perfect union; its objects and its purposes expressed in that instrument presupposes its existence in perpetuity. The denial of the right to enact the ordinance by the municipality is to lessen the effectiveness of the preamble of the constitution of the United States emanating from the people, the source of all power.

The ordinance is a matter of local concern and of local importance, a matter of the ordinary functions of govern-

[fol. 37] ment. It is well established constitutional law that "implied constitutional restrictions are just as effective as those that are directly expressed." Among those which are implied though not expressed, is That the *Nation* may not in the Exercise of its Powers Prevent a State from Discharging the Ordinary Functions of Government." (Under-scoring ours). *South Carolina v. U. S.*, 199 U. S. 45; *Hepburn v. Griswold*, 12 Wall. 534. Therefore, when this ordinance was passed, the City of Alexandria was performing an ordinary function of government, a right which the nation will not deny. It is the actual infringement on the provisions of the Federal Constitution that is interdicted, not the exercise of the ordinary functions of government by the municipality.

For the reasons assigned, the judgment and sentence appealed from are hereby affirmed.

[fol. 38] IN SUPREME COURT OF LOUISIANA

[Title omitted]

PETITION FOR APPEAL TO SUPREME COURT OF THE UNITED STATES

To the Honorable John B. Fournet, Chief Justice of the Supreme Court of Louisiana:

Considering himself aggrieved by the final decree and judgment of the above Court entered on June 30, 1950, Jack H. Breard, the defendant-appellant herein, does hereby pray that an appeal be allowed to the Supreme Court of the United States from said final decree and judgment and from each and every part thereof; that citation be issued in accordance with law; that an order be made with respect to the appeal bond to be given by said defendant-appellant; that a supersedeas be granted pending the final disposition of this appeal, and that the amount of security be fixed by the order allowing the appeal; and that the material parts of the record, proceedings and papers upon which said final judgment and decree was based duly authenticated be sent to the Supreme Court of the United

[fol. 39] States in accordance with the rules in such case made and provided.

Respectfully submitted, (S.) T. C. McLure, Jr., 606 Murray Street, Alexandria 6, Louisiana. (S.) J. Harry Wagner, Jr. 2238 Fidelity-Philadelphia Bldg., Philadelphia 9, Penna. (S.) E. Russell Shockley, 1719 Packard Building, Philadelphia 2, Penna., Attorneys for Appellant.

Schnader, Harrison, Segal & Lewis, 1719 Packard Building, Philadelphia 2, Penna., of Counsel.

[fol. 40] IN SUPREME COURT OF LOUISIANA

[Title omitted]

ASSIGNMENT OF ERRORS AND PRAYER FOR REVERSAL

Jack H. Breard, who is the defendant-appellant in the above entitled cause, and who is engaged in house-to-house solicitation of orders for nationally known magazines which are fulfilled by shipment in interstate commerce, hereby files the following assignment of errors upon which he will rely in his prosecution of his appeal to the Supreme Court of the United States from the final judgment and decree of the Supreme Court of Louisiana entered on June 30, 1950:

1. The Supreme Court of Louisiana erred in holding and deciding that Penal Ordinance No. 500 of the City of Alexandria, Louisiana, which prohibits the practice of making uninvited visits to private residences by solicitors, does not violate the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States, because [fol. 41] cause the ordinance arbitrarily, unreasonably and unduly burdens and curtails and, in effect, denies the fundamental right of appellant and others similarly situated to engage in a lawful private business or occupation.

2. The Supreme Court of Louisiana erred in holding and deciding that said Penal Ordinance No. 500, as applied to appellant and other solicitors similarly situated, does not impose an undue and discriminatory burden upon interstate commerce and, in effect, is not tantamount to a prohibition

of such commerce, in violation of Article I, Section 8, Clause 3 of the Constitution of the United States.

3. The Supreme Court of Louisiana erred in holding and deciding that said Penal Ordinance No. 500, as applied to appellant and other solicitors similarly situated, does not violate Amendment I and Amendment XIV, Section 1, to the Constitution of the United States, in that it abridges freedom of speech or of the press because it places an arbitrary, unreasonable and undue burden upon a well established method of distribution and circulation of lawful magazines and periodicals, and, in effect, is tantamount of a prohibition of the utilization of such method.

4. The Supreme Court of Louisiana erred in sustaining the constitutionality of Penal Ordinance No. 500 and in sustaining the conviction of appellant for violating such ordinance; and in entering its final judgment and decree of [fol. 42] June 30, 1950, with the above force and to the above effect.

Wherefore, Jack H. Beard, the defendant-appellant in the above cause, prays that the final judgment and decree entered by the Supreme Court of Louisiana on June 30, 1950, in the above entitled cause be reversed, and for such other relief as the court may deem fit and proper.

(S.) T. C. McLure, Jr., 606 Murray Street, Alexandria 6, Louisiana. (S.) J. Harry Wagner, Jr., 2238 Fidelity-Philadelphia Trust Building, Philadelphia 9, Pa. (S.) E. Russell Shockley, 1719 Packard Building, Philadelphia 2, Pa., Attorneys for Appellant.

Schnader, Harrison, Segal & Lewis, 1719 Packard Building, Philadelphia 2, Pa., of Counsel.

[fols. 43-79] IN SUPREME COURT OF LOUISIANA

[Title omitted]

ORDER ALLOWING APPEAL TO THE SUPREME COURT OF THE UNITED STATES—September 25, 1950

Jack H. Breard, the defendant-appellant in the above matter having made and filed his petition praying for an appeal to the Supreme Court of the United States from the final

judgment and decree of this court in this cause entered on June 30, 1950, and from each and every part thereof, and having presented his assignment of errors and prayer for reversal and his statement as to the jurisdiction of the Supreme Court of the United States on appeal pursuant to the statutes and rules of the Supreme Court of the United States in such cases made and provided,

Now, Therefore, it Is Hereby Ordered that said appeal is hereby allowed as prayed for; and that the Clerk of the Supreme Court of Louisiana shall prepare and certify a transcript of the record and proceedings in the above cause [fol. 80] and transmit the same to the Supreme Court of the United States within forty days from the date of this order.

It Is Further Ordered that the amount of the appeal bond be and the same is hereby fixed in the sum of \$500; that the amount of the supersedeas bond be and the same is hereby fixed in the sum of \$500; that each such bond shall have good and sufficient surety and shall be conditioned as may be required by law; and that the judgment entered in this cause be suspended and stayed until the termination of this appeal.

The appellant now presenting an appeal bond and a supersedeas bond, each in the sum of \$500 and each with the Maryland Casualty Company, of Baltimore, Md. as surety, it Is Ordered that such bonds be and the same are hereby approved.

It Is Further Ordered that citation shall issue in accordance with law.

(S.) John B. Fournet, Chief Justice of the Supreme Court of Louisiana.

September 25, 1950.

[fol. 81-84] Citation in usual form omitted in printing.

[fol. 85]

IN SUPREME COURT OF LOUISIANA

[Title omitted]

STIPULATION AS TO TRANSCRIPT OF RECORD—September 26,
1950

The parties to the above-entitled cause by their attorneys hereby stipulate that the following portions of the record shall be included in the transcript transmitted to the Supreme Court of the United States:

1. All papers filed and official record of proceedings had in the City Court of Alexandria Ward, Rapides Parish, Louisiana, including the city charge sheet, motion to quash, minutes, stipulation of facts and exhibits attached thereto, but excluding the appeal bond.
2. All papers filed and official record of proceedings had in the Supreme Court of Louisiana in connection with appellant's appeal to that court, including docket entries, appellant's Specification of Errors (see appellant's printed brief, page 7), opinion and [final] * judgment and decree of the Supreme Court of Louisiana.
3. All papers filed and official record of proceedings had in the Supreme Court of Louisiana in connection with the appellant's appeal to the Supreme Court of the United States, including Petition for Appeal, Order Allowing Appeal and Supersedeas, Citation on Appeal, [fol. 86] Assignment of Errors, Statement as to Jurisdiction, Service of Appeal Papers, Citation and Statement of Rule 12(3) of the Rules of the Supreme Court of the United States, Acknowledgment and Acceptance of Service of Appeal Papers, Citation and Statement of Rule 12(3), and this stipulation, but excluding appeal and supersedeas bonds.

(S.) T. C. McLure, Jr., 606 Murray Street, Alexandria 6, Louisiana; (S.) J. Harry Wagner, Jr., 2238 Fidelity-Philadelphia Bldg., Philadelphia 9, Pennsylvania; (S.) E. Russell Shockley, 1719 Paekard Building, Philadelphia 2, Pennsylvania, Attorneys for Appellant. Frank Peterman, City Attorney of City of Alexandria, Appellee.

* [Struck out in copy.]

Dated September 26, 1950.

The Attorney for the City of Alexandria, Appellee, agrees that the documents and records referred to in the above stipulation shall be included in the transcript transmitted to the Supreme Court of the United States but desires that said transcript also contain the motion to dismiss filed by the appellee.

(S.) Frank H. Peterman, City Attorney of City of Alexandria, Appellee, 909 Sixth Street, Alexandria, Louisiana.

[fol. 87] Clerk's Certificate to foregoing transcript omitted in printing.

[fols. 88-89] IN THE SUPREME COURT OF THE UNITED STATES

[Title omitted]

STATEMENT OF POINTS TO BE RELIED UPON AND DESIGNATION OF PARTS OF RECORD TO BE PRINTED—Filed November 13, 1950

Jack H. Breard, the appellant, in accordance with Rule 13 (9) of this Court, hereby makes the following statement and designation:

1. Appellant adopts for his statement of points upon which he intends to rely in his appeal to this Court, the points contained in his Assignments of Error filed heretofore in this cause.

2. Appellant designates the entire record, as filed in the above cause, for printing by the Clerk of this Court excepting only the Appeal Bond filed in the City Court of Alexandria.

E. Russell Shockley, 1719 Packard Building, Philadelphia 2, Pa., Attorney for Appellant.

[q. 89a] [File endorsement omitted.]

[fol. 90] SUPREME COURT OF THE UNITED STATES, OCTOBER
TERM, 1950

No. 399

ORDER NOTING PROBABLE JURISDICTION—December 11, 1950

The statement of jurisdiction in this case having — submitted and considered by the Court, probable jurisdiction is noted.

Endorsed on Cover: File No. 54,905. Louisiana, Supreme Court, Term No. 399. Jack H. Breard, Appellant vs. City of Alexandria. Filed November 2, 1950. Term No. 399 O. T. 1950.

(2046)

